

SENATE FILE 2103
BY KIBBIE

A BILL FOR

1 An Act relating to excise taxes imposed upon special fuel,
2 including biodiesel fuel and diesel fuel used in the
3 production of biodiesel blended fuel.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 452A.2, Code 2009, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 9A. "*Diesel fuel*" means the same as defined
4 in section 214A.1.

5 Sec. 2. Section 452A.2, subsection 29, Code 2009, is amended
6 to read as follows:

7 29. "*Nonterminal storage facility*" means a facility where
8 motor fuel or special fuel, other than liquefied petroleum
9 gas, is stored that is not supplied by a pipeline or a marine
10 vessel. "*Nonterminal storage facility*" includes a facility that
11 manufactures products such as ~~ethanol as defined in section~~
12 ~~214A.1~~, biofuel, blend stocks, or additives which may be used
13 as motor fuel or special fuel, other than liquefied petroleum
14 gas, for operating motor vehicles or aircraft.

15 Sec. 3. Section 452A.3, subsection 3, Code Supplement 2009,
16 is amended to read as follows:

17 3. a. For the privilege of operating motor vehicles or
18 aircraft in this state, there is imposed an excise tax on the
19 use of special fuel in a motor vehicle or aircraft.

20 (1) The tax rate on special fuel for diesel engines of motor
21 vehicles is twenty-two and one-half cents per gallon. The tax
22 rate on biodiesel fuel for diesel engines of motor vehicles
23 shall be determined on a volume basis with the gross metered
24 gallons adjusted in volume to sixty degrees Fahrenheit.

25 (2) The rate of tax on special fuel for aircraft is three
26 cents per gallon.

27 (3) On all other special fuel, unless otherwise specified in
28 this section, the per gallon rate is the same as the motor fuel
29 tax.

30 b. Indelible dye meeting United States environmental
31 protection agency and internal revenue service regulations
32 must be added to special fuel before or upon withdrawal at a
33 terminal or refinery rack for that special fuel to be exempt
34 from tax and the dyed special fuel may be used only for an
35 exempt purpose.

1 Sec. 4. Section 452A.17, subsection 1, paragraph a, Code
2 Supplement 2009, is amended by adding the following new
3 subparagraph:

4 NEW SUBPARAGRAPH. (11) Diesel fuel used by a nonterminal
5 storage facility to blend with biodiesel to produce biodiesel
6 blended fuel, if the biodiesel blended fuel is distributed
7 to a blender licensed pursuant to section 452A.6 who is also
8 required to pay the excise tax on that same diesel fuel.

9 Sec. 5. Section 452A.86, Code 2009, is amended to read as
10 follows:

11 **452A.86 Method of determining gallonage.**

12 1. The exclusive method of determining gallonage of
13 any purchases or sales of motor fuel, undyed special fuel,
14 compressed natural gas, or liquefied petroleum gas as defined
15 in this chapter and distillate fuels shall be on a gross
16 volume basis. A temperature-adjusted or other method shall
17 not be used, except as it applies to biodiesel fuel, liquefied
18 petroleum gas ~~and, or~~ the sale or exchange of petroleum
19 products between petroleum refiners. All invoices, bills of
20 lading, or other records of sale or purchase and all returns
21 or records required to be made, kept, and maintained by a
22 supplier, restrictive supplier, importer, exporter, blender,
23 or compressed natural gas or liquefied petroleum gas dealer or
24 user shall be made, kept, and maintained on the gross volume
25 basis.

26 2. For purposes of this section, "*distillate fuels*" means
27 any fuel oil, gas oil, topped crude oil, or other petroleum
28 oils derived by refining or processing crude oil or unfinished
29 oils which have a boiling range at atmospheric pressure which
30 falls completely or in part between five hundred fifty and
31 twelve hundred degrees Fahrenheit.

32 EXPLANATION

33 CALCULATING THE EXCISE TAX IMPOSED ON BIODIESEL FUEL. This
34 bill applies to the excise tax imposed on biodiesel fuel, which
35 includes biodiesel and biodiesel blended with diesel fuel, from

1 B-1 to B-100 (see generally Code sections 214A.1 and 214A.2).

2 Generally, an excise tax is imposed on each gallon of motor
3 fuel, including biodiesel fuel (Code section 452A.3) on a
4 gross volume basis without adjustment (Code section 452A.86).
5 The bill does not directly change the excise tax imposed on
6 biodiesel fuel, but changes how the gallonage is calculated
7 at the meter, by requiring that the excise tax be assessed
8 after adjusting the biodiesel's fuel temperature to 60 degrees
9 Fahrenheit.

10 REFUND OF EXCISE TAX PAID ON DIESEL FUEL PAID BY NONTERMINAL
11 STORAGE FACILITIES. A person who manufactures a biofuel,
12 including ethanol or biodiesel for distribution, is classified
13 as a nonterminal storage facility (Code section 452A.2). A
14 nonterminal storage facility is required to pay an excise
15 tax on diesel fuel used in producing biodiesel blended fuel.
16 The bill provides that the nonterminal storage facility is
17 entitled to a refund of the excise tax paid on diesel fuel if
18 the biodiesel blended fuel is distributed to a licensed blender
19 (Code section 452A.6) who must pay the excise tax on that same
20 diesel fuel.